

In re application of: **DULL ET AL.**

Serial No: **09/845,526**

Filed: **April 30, 2001**

For: **PHARMACEUTICAL COMPOSITIONS AND METHODS FOR USE**

Examiner: **V. Balasubramanian**  
Group Art Unit: **1624**

### **REMARKS**

Claims 1-16, 22-41, 48-66 and 73-75 are pending. Claims 51-66 and 73-75 were allowed. Claims 1, 4-8, 16, 25, 28-33 and 41 were rejected. Claims 2, 3, 22-24, 34-40 and 48-50 were objected to as being dependent on a rejected base claim. The limitations of claim 2 were incorporated into claim 1, and claim 2 has been cancelled. Accordingly, claim 1 is now in condition for allowance. Likewise, the limitations of claim 22 were incorporated into claim 16 (and claim 22 has been cancelled), the limitations of claim 34 were incorporated into claim 25 (and claim 34 has been cancelled), and the limitations of claim 48 were incorporated into claim 41 (and claim 48 has been cancelled). These amendments add no new matter, and further prosecution by addressing all outstanding issues raised in the July 2, 2003 Office Action. The Examiner is respectfully requested to enter the amendments.

### **Supplemental Information Disclosure Statement**

Applicants timely filed a Supplemental Information Disclosure Statement on October 9, 2003, along with a petition and the appropriate fee. Applicants believe that the single item of information submitted in the Supplemental Information Disclosure Statement does not affect the patentability of the claims as amended herein.

As discussed herein, the claims have been amended as suggested by the Examiner, which amendments are believed to obviate the remaining rejections and put the claims in condition for allowance. Accordingly, the Examiner is respectfully requested to consider the Supplemental Information Disclosure Statement, and return an initialed PTO Form 1449, before issuing a Notice of Allowance.

### **Rejections under 35 U.S.C. 112, Second Paragraph**

As indicated in the July 2, 2003 Office Action, all outstanding rejections under 35 U.S.C. 112, second paragraph, were obviated by the prior amendment.

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### **Rejections under 35 U.S.C. 112, First Paragraph**

As indicated in the July 2, 2003 Office Action, all outstanding rejections under 35 U.S.C. 112, first paragraph, were obviated by the prior amendment.

### **Rejections under 35 U.S.C. 103(a)**

As indicated in the July 2, 2003 Office Action, the prior rejections of claims 1-16, 22-41, 48-66 and 73-75 under 35 U.S.C. 103(a), first paragraph, as obvious in view of PCT WO 99/32117 to Vernier ("Vernier") have been obviated.

The July 2, 2003 Office Action raised a new obviousness rejection, rejecting claims 1, 4-8, 16, 25, 28-33 and 41 under 35 U.S.C. 103(a), first paragraph, as obvious in view of U.S. Patent No. 5,731,323 to Whitmore et al. ("Whitmore"). Applicants respectfully traverse the rejections if applied to the amended claims.

Applicants do not believe it would have been obvious to modify Whitmore to arrive at the claimed subject matter, and reserve the right to pursue broader claims in a related continuation application. However, to facilitate allowance, Applicants have amended claims 1, 16, 25 and 41 to incorporate the limitations in the respective dependent claims (claims 2, 22, 34 and 48), and cancelled the respective dependent claims, which dependent claims were otherwise indicated as allowable (but dependent on a rejected base claim). These amendments overcome the rejections.

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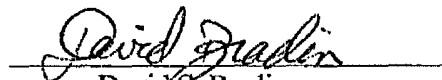
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### Conclusion

It is believed that the above-mentioned amendments and comments address each of the rejections. In light of the above-mentioned amendments and comments, Applicants respectfully request prompt issuance of a Notice of Allowance. Should the Examiner have any questions, the Examiner is invited to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,



Date: December 2, 2003

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